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Rambus Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RAMBUS INC.,

Plaintiff,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant.

CASE NO. C 10-03736 JSW
(Related Case: C 10-04017 JSW)

**PLAINTIFF RAMBUS INC.'S
ADMINISTRATIVE MOTION TO
CONSIDER LETTER TO THE COURT;
SUPPORTING DECLARATION OF TINA
E. HULSE;**

[PROPOSED] ORDER

1 On February 24, 2011, Defendant International Business Machines Corporation (“IBM”)
 2 submitted via e-mail a letter to the Court without Plaintiff Rambus Inc.’s (“Rambus”) approval or
 3 comments. Not only did IBM’s letter violate this Court’s standing order on communications with
 4 the Court, IBM’s letter violated this Court’s standing order on discovery disputes, which expressly
 5 states that the parties must submit a “*joint* letter brief” to the Court. Rambus has no choice but to
 6 respond to the mischaracterizations in IBM’s letter, but does not wish to violate the Court’s standing
 7 order.

8 Accordingly, while Rambus regrets any inconvenience to the Court caused by these letters,
 9 Rambus respectfully requests that the Court either disregard IBM’s letter and require the parties to
 10 submit a joint letter brief, or, if the Court considers IBM’s letter, to consider Rambus’s responsive
 11 letter (attached as Exhibit A), as well.

12 **SUPPORTING DECLARATION OF TINA E. HULSE**

13 I, TINA E. HULSE, declare as follows:

14 1. I am an attorney licensed to practice before this Court and all courts of the State of
 15 California, and am an associate of Finnegan, Henderson, Farabow, Garrett & Dunner L.L.P., counsel
 16 for Rambus in the above-entitled action. The matters stated herein are based upon my personal
 17 knowledge, and if called as a witness, would testify as to them.

18 2. The representations made in this Administrative Motion and Declaration are true and
 19 correct to the best of my knowledge and belief.

20 3. On February 23, 2011, I received from IBM’s counsel, Robert Fischer, an e-mail
 21 attaching a draft letter to the Court and stating, “We invite Rambus to join in submitting this letter,
 22 but we will proceed to finalize and file it ourselves sometime tomorrow afternoon (Pacific) if we do
 23 not hear from you by then.”

24 4. On February 24, 2011, I responded to Mr. Fischer with an alternative proposed case
 25 schedule to avoid involving the Court. I also stated, “If you do not agree and intend to file a letter
 26 today, please let us know so we can send you Rambus’s position for the letter, as your letter does not
 27 characterize our position correctly.”
 28

1 5. After a series of e-mails regarding IBM's proposed letter to the Court, a telephone
 2 call I had with the Court's clerk, and a telephone conference with Mr. Fischer, I received an e-mail
 3 from IBM's counsel, Edward Kmett, attaching "a copy of a Letter Brief being submitted to Judge
 4 White in accordance with his standing order on discovery disputes." The attached letter included
 5 revisions to the letter sent to me on February 23, 2011.

6 6. I responded to Mr. Kmett, stating, "As you know, the standing order requires letters
 7 to the Court to be joint letter briefs. We will get back to you with our comments on your proposed
 8 letter."

9 7. IBM's counsel, Mr. Fischer, then responded to my e-mail, stating the letter to the
 10 Court had already been submitted.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is
 12 true and correct and this declaration was executed this 25th day of February, 2011, at San Francisco,
 13 California.

14 Dated: February 25, 2011

By: /s/ Tina E. Hulse

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Attorneys for Plaintiff
 Rambus Inc.

PROPOSED ORDER

IT IS HEREBY ORDERED that Rambus's Administrative Motion is **GRANTED**.

The Court orders the parties to submit a joint letter brief in accordance with the Court's standing order on discovery disputes.

[or, in the alternative: The Court shall consider both letter briefs of the parties.]

Dated: _____, 2011

Jeffrey S. White
United States Court District Judge